

REMARKS

Claims 1, 5-49 are pending in this application. Claims 2, 3 and 4 are cancelled herein without prejudice to the subject matter contained therein. Claims 1, 16, 19, 28 and 36 are amended. No claims have been added. Reconsideration in view of the following remarks is respectfully requested.

Applicants' representatives thank the Examiner for the courtesies extended during the personal interview held on November 30, 2004. During the interview, it was agreed that claims 1, 16 and 36 as amended herein are patentable over the applied prior art. The substance of the interview is reflected in the remarks below.

Claim Rejections – 35 USC 102

Claims 1-4, 8, 9 and 13-15 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fuller et al. (U.S. Patent No. 5,644,852). Applicants respectfully traverse this rejection for at least the following reasons.

Claims 2, 3 and 4 have been cancelled herein without prejudice or disclaimer. Therefore, the rejection of claims 2, 3 and 4 over Fuller is rendered moot.

The Examiner contends that the device of Fuller et al. has a hook 50 outside a housing 10. The hook has a body with a line attachment device on one end and a finger 52 extending outwardly from the other end. The finger 52 engages a depression 36 during storage of the hook.

As pointed out during the interview, the depression 36 in Fuller et al. is formed on the door 26 which is positioned over opening 16. The device of Fuller et al. does not have a depression formed on a side wall of the device, as recited in claim 1. Consequently, Fuller et al. does not disclose each and every feature of claim 1, as required for an anticipation rejection.

Therefore, Applicants respectfully submit that claim 1, and claims 8, 9 and 13-15 which depend directly or indirectly from claim 1, are patentable. Thus, Applicants respectfully request that the rejection of claims 1-4, 8, 9 and 13-15 under § 102(b) over Fuller et al. be withdrawn.

Claim Rejections – 35 USC 103

Claims 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Love (U.S. Patent No. 6,079,112) in view of Fuller et al. (U.S. Patent No. 5,644,852).

Claim 1 has been amended to recite, *inter-alia*, “wherein the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage, the depression having a mouth that is flush with the side wall, wherein the hook has a body with a line attachment device on one end and a finger extending outwardly from the other end, the finger engaging the depression during storage so that the body can lie against the exterior surface.”

The Examiner concedes that the housing of the device in Love does not have gripping depressions and the chalk port being covered by a movable door. The Examiner further concedes that the hook storage means in the device of Love does not have a depression to engage the finger of the hook member during storage of the hook. Furthermore, in Love the hook does not have a body with a line attachment device on one end and a finger extending outwardly from the other end and the finger engaging the depression during storage so that the body can lie against the exterior surface. The device of Love merely has a post 15 for securing the clip 13 to keep the chalk line from withdrawing completely into the housing 3 of the device.

As stated above with regard to claim 1, Fuller et al. does not disclose, teach or suggest “the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage.” Furthermore, Fuller et al. does not disclose, teach or suggest “the depression having a mouth that is flush with the side wall.” Fuller et al. does not disclose, teach or suggest “the hook has a body with a line attachment device on one end and a finger extending outwardly from the other end, the finger engaging the depression during storage so that the body can lie against the exterior surface.”

Consequently, neither Love nor Fuller et al., alone or in combination, disclose, teach or suggest the subject matter recited in claim 1.

Claims 5-7 depend from claim 1. Therefore, for at least the reasons provided above with regard to claim 1, Applicants respectfully submit that claims 5-7 are patentable over the combination of Love and Fuller.

Furthermore, neither Love nor Fuller et al., alone or in combination, discloses, teaches or even suggests “the door to the chalk port is mounted to one side of the housing and the depression is located on a different side of the housing,” as recited in claim 5.

Moreover, neither Love nor Fuller et al., alone or in combination, discloses, teaches or suggests “the housing has walls and the door is mounted on one wall of the housing and the depression is located on another wall that extends at an angle to the side wall with the door,” as recited in claim 6 or “the housing has walls and the door is mounted on one wall of the housing and the depression is located on a another wall that is located on an opposite side of the housing,” as recited in claim 7.

Therefore, Applicants respectfully submit that claims 5-7 are patentable and respectfully request that the rejection of claims 5-7 under § 103(a) over the combination of Love and Fuller be withdrawn.

Claims 10, 12, 16, 17, 19-33, 35-38, 40-44, and 45-49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fuller et al. (U.S. Patent No. 5,644,852) in view of Cooper (U.S. patent No. 4,768,290). Applicants respectfully traverse this rejection for at least the following reasons.

Claims 10 and 12 depend from claim 1. Therefore, for at least the reasons presented above with regard to claim 1, Applicants respectfully submit that claims 10 and 12 are patentable over Fuller et al. Cooper fails to overcome the deficiencies noted above in Fuller et al. Cooper does not disclose, teach or suggest a chalk line device much less a chalk line device in which the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage.

Therefore, For at least the above reasons, Applicants respectfully submit that neither Fuller et al. nor Cooper, alone or in combination, disclose, teach or suggest the subject matter recited in claims 10 and 12.

Claim 16 recites, *inter-alia*, “a housing having a chalk line port and a chalk port and defining a sealed interior space...an amount of powdered chalk retained within the chalk reservoir, wherein the amount of powdered chalk retained within the chalk reservoir can be viewed through the translucent window.”

The Examiner concedes that Fuller does not disclose a chalk device having a translucent window to view the chalk inside the housing. The Examiner contends, however,

that Cooper teaches a window to view the inside of a housing and thus it would have been obvious to one of ordinary skill in the art to use the window of Cooper in the housing of Fuller et al. Applicants respectfully disagree.

Cooper's device is a device for measuring distance, not a chalk line device used to mark a guide line, and thus one of ordinary of skill in the art would not have been motivated to combine Cooper and Fuller et al. The housings in Cooper and Fuller are entirely different. Fuller et al. housing is sealed to contain a powdered chalk and Cooper's housing is not sealed. In fact, Cooper's housing is intended to open. Furthermore, the window 17 in Cooper's device is merely used to visually determine when a thread in the device is running low. Cooper's housing does not and could not contain chalk as it is not sealed. The window 17 in Cooper's device is not used to view an amount of powdered chalk disposed inside the housing. Thus, for this additional reason, one of ordinary skill in the art would not have been motivated to use the window of Cooper's device in the device of Fuller.

Therefore, Applicants respectfully submit that claim 16, and claims 17, 19-33 and 35 which depend directly or indirectly from claim 16, are patentable.

Claim 36 recites, *inter-alia*, "the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage, and the housing includes a translucent window forming at least a portion of a wall of the chalk reservoir, the depression having a mouth that is flush with the side wall."

As stated above with respect to claim 1, Fuller et al. does not disclose, teach or suggest "the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage." Moreover, in Fuller et al., the mouth 30 in door 26 has two ribs 32 and 34 which are upstanding from an exterior surface of the door 26 (see col. 2, lines 16-23 in Fuller et al.). Therefore, Fuller et al. does not disclose, teach or suggest "the depression having a mouth that is flush with the side wall." Furthermore, as conceded in the Office Action, Fuller et al. does not disclose, teach or suggest "the housing includes a translucent window forming at least a portion of a wall of the chalk reservoir."

Cooper does not overcome the deficiencies noted above in Fuller et al. Cooper merely discloses a device for measuring distance with a window for viewing and determining when a thread in the device is running low.

Therefore, neither Fuller et al. nor Cooper, alone or in combination, discloses, teaches or suggests the subject matter recited in claim 36.

Therefore, Applicants respectfully submit that claim 36, and claims 37-8, 40-44 and 45-49 which depend from claim 36, are patentable.

Thus, Applicants respectfully request that the rejection of claims 10, 12, 16, 17, 19-33, 35-38, 40-44 and 45-49 under § 103(a) over the combination of Fuller et al. and Cooper be withdrawn.

Claims 11, 16, 32, 34, 36 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Love (U.S. Patent No. 6,079,112) in view of Fuller et al. (U.S. Patent No. 5,644,852) and further in view of Cooper (U.S. patent No. 4,768,290).

Claim 11 depends from claim 1. Therefore, for at least the reasons presented above with regard to claim 1, Applicants respectfully submit that claim 11 is patentable over the combination of Love and Fuller et al. Cooper fails to overcome the above noted deficiencies in Love and Fuller et al. Specifically, Cooper does not disclose, teach or suggest a chalk line device much less a chalk line device in which the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage.

Claim 16 recites, *inter-alia*, “a housing having a chalk line port and a chalk port and defining a sealed interior space...an amount of powdered chalk retained within the chalk reservoir, wherein the amount of powdered chalk retained within the chalk reservoir can be viewed through the translucent window.”

Neither Fuller et al. nor Love, alone or in combination discloses, teaches or suggests, a housing having a chalk line port and a chalk port and defining a sealed interior space and an amount of powdered chalk retained within the chalk reservoir, the amount of powdered chalk retained within the chalk reservoir can be viewed through the translucent window.

Cooper merely discloses a device for measuring distance, not a chalk line device used to mark a guide line, and thus one of ordinary skill in the art would not have been motivated to combine Cooper and Fuller et al or to combine Cooper and Love. The housings in Cooper and Fuller or Love are entirely different. Fuller et al. housing and Love housing are both sealed to contain a powdered chalk and Cooper’s housing is not sealed. In fact, Cooper’s housing is intended to open. Furthermore, the window 17 in Cooper’s device is merely used to visually determine when a thread in the device is running low. Cooper’s

housing does not and could not contain chalk as it is not sealed. The window 17 in Cooper's device is not used to view an amount of powdered chalk disposed inside the housing.

Thus, one of ordinary skill in the art would not have been motivated to use the window of Cooper in the device of Fuller et al. or to use the window of Cooper in the device of Love to view the level chalk. Consequently, none of Fuller et al., Love and Cooper, alone or in combination, discloses, teaches or suggests the subject matter recited in claim 16.

Therefore, Applicants respectfully submit that claim 16, and claim 32 which depends from claim 16, are patentable.

Claim 36 recites, *inter-alia*, "the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage, and the housing includes a translucent window forming at least a portion of a wall of the chalk reservoir, the depression having a mouth that is flush with the side wall."

Neither Fuller et al. nor Love, alone or in combination, discloses, teaches or suggests "the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage," much less "the depression having a mouth that is flush with the side wall." Furthermore, as conceded in the Office Action, neither Fuller et al. nor Love, alone or in combination, discloses, teaches or suggests "the housing includes a translucent window forming at least a portion of a wall of the chalk reservoir."

Cooper does not overcome the deficiencies noted above in Fuller et al. and Love. Therefore, none of Fuller et al., Love and Cooper, alone or in combination, discloses, teaches or suggests the subject matter recited in claim 36.

Therefore, Applicants respectfully submit that claim 36, and claim 39 which depends from claim 36, are patentable.

Thus, Applicants respectfully request that the rejection of claims 11, 16, 32, 34, 36 and 39 under § 103(a) over the combination of Love, Fuller and Cooper be withdrawn.

Claims 18 and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fuller et al. (U.S. Patent No. 5,644,852) in view of Cooper (U.S. patent No. 4,768,290) and further in view of Noyes (U.S. Patent No. 4,819,337).

Claim 18 depends from claim 16 and claim 45 depends from claim 36. Therefore, for at least the reasons presented above with regard to claims 16 and 36, Applicants respectfully submit that claims 18 and 45 are patentable over the combination of Fuller et al. and Cooper.

Noyes fails to overcome the above noted deficiencies in the combination of Fuller et al. and Cooper. Noyes merely discloses a chalk line marking device modified to provide spacing marks with marking units, such as washers, attached at spaced intervals along the line. Noyes does not disclose, teach or suggest, *inter-alia*, “a housing having a chalk line port and a chalk port and defining a sealed interior space...an amount of powdered chalk retained within the chalk reservoir, wherein the amount of powdered chalk retained within the chalk reservoir can be viewed through the translucent window, “ as recited claim 16 and Noyes does not disclose, teach or suggest, *inter-alia*, “the exterior surface of the housing includes a side wall with a depression formed therein that is shaped to receive the hook for storage, and the housing includes a translucent window forming at least a portion of a wall of the chalk reservoir, the depression having a mouth that is flush with the side wall,” as recited in claim 36.

Consequently, for at least these reasons, none of Fuller, Cooper and Noyes, alone or in combination, discloses, teaches or suggests the subject matter recited in claims 18 and 45.

Therefore, Applicants respectfully submit that claims 18 and 45 are patentable and respectfully request that the rejection of claims 18 and 45 under § 103(a) over the combination of Fuller, Cooper and Noyes be withdrawn.

CONCLUSION

In view of the foregoing, the claims are now in form for allowance, and such action is hereby solicited. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the telephone number listed below.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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